

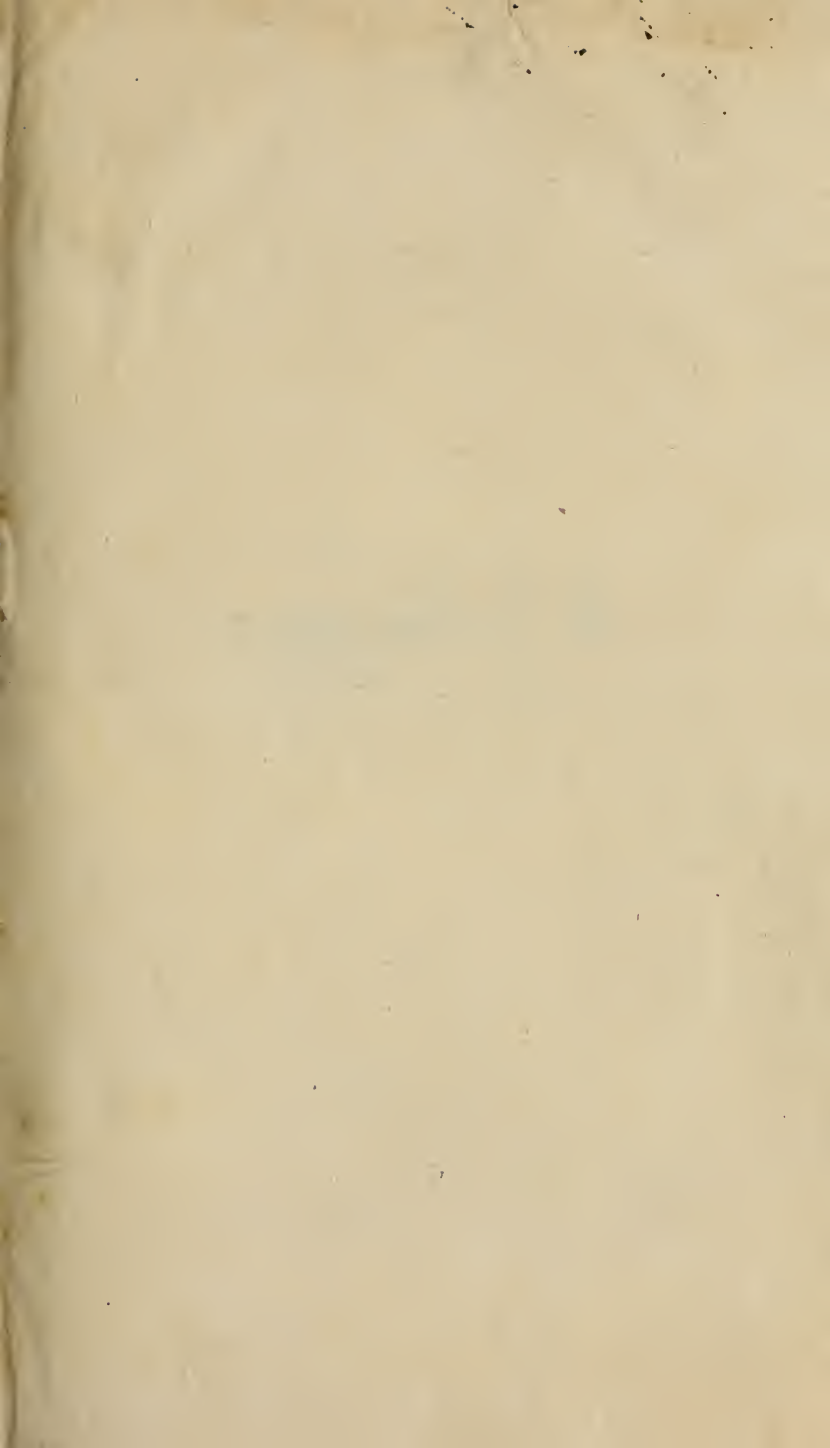


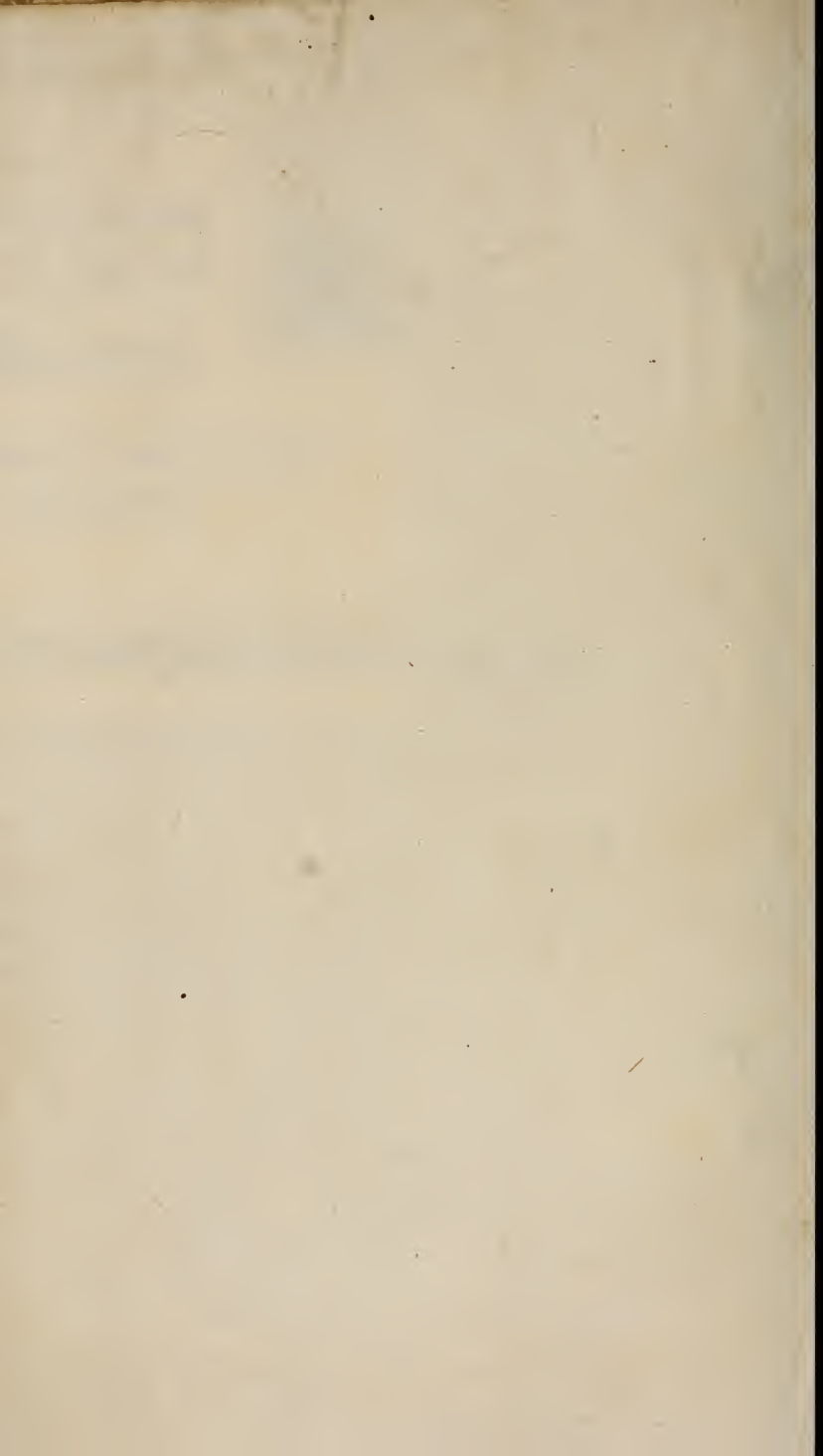
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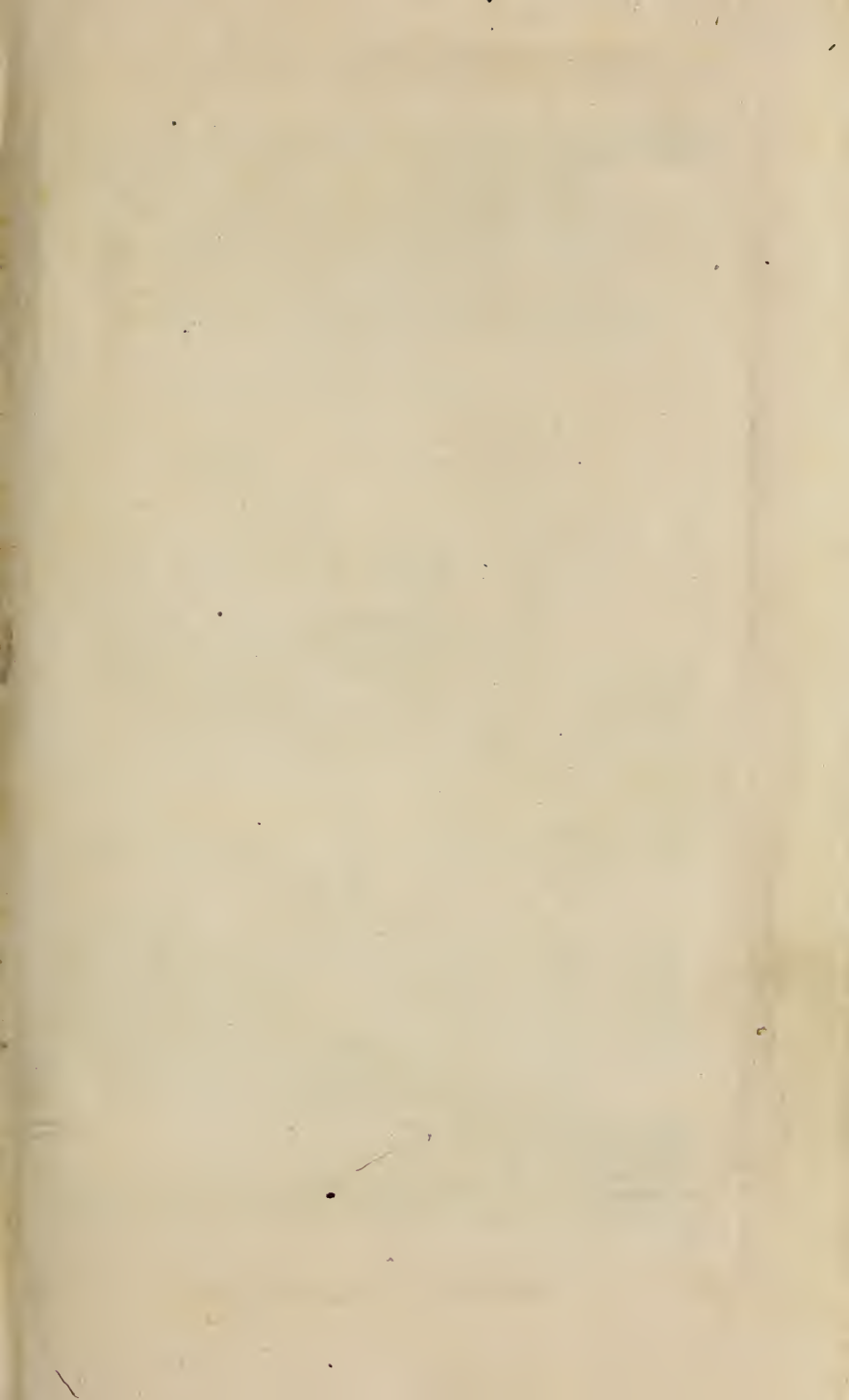


QUEEN'S UNIVERSITY
AT KINGSTON

KINGSTON ONTARIO CANADA







STATUTE

OF THE

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A
S T A T E

Of one of the

Author's CASES

Before the

House of LORDS,

Which is

Mentioned and Referred to

I N


The Thirty - fourth PAGE

O F T H E

I N T R O D U C T I O N .

Note, This CASE is now reprinted *ver-*
batim, as it was formerly given into
the most Honourable House of Lords.

Printed in the Year 1731.



BUDGELL and PAZEY,
Plaintiffs in Error.

PIERS or HOLLIS,
Defendant in Error.

The Case of the Plaintiffs in Error.

*Which, if an Order of the House of LORDS
stands unaltered, will be heard at the Bar
of the said House, on the 16th of May ;
on which Day the Errors on three other
Writs of Error are also ordered to be ar-
gued.*



M



BUDGELL and PAZEY,
Plaintiffs in Error.

PIERS or HOLLIS,
Defendant in Error.

When those very Laws which were designed to secure the Property of the Subject, are made the Instruments to destroy it; and when an innocent Man, who desires to be quiet, and would do any thing that is reasonable to purchase Peace, shall have a Multitude of Actions brought against him, with no other Intent, than a plain and evident Design to ruin him: As this may one Day be the Case of any private Gentleman in England, who shall have a Rich and Powerful Man his Enemy, it may require a more than ordinary Attention.

The following CASE is most humbly presumed to be extremely remarkable and uncommon.

MR. *Budgell*, some Years since, bought the Reversion of an Estate of one

vi The Appendix.

Mr. *John Piers*, after the Life of his Mother: This Estate is held under *St. John's College* in *Cambridge*, and lies in the Manor of *Thorrington* in *Essex*; the Custom of which Manor is *Burrough English*. Mr. *Budgell's* Title to the said Estate is thus: *John Piers* the Father bought the Estate, which is Copyhold of Inheritance, and was surrendered to the Use of the said *John Piers* and his Wife, and the longest Liver of them, and afterwards to the Heirs of the said *Piers* for ever. He died, leaving four Sons, *viz.* *John*, *William*, *Edward*, and *Laud*; so that the Reversion of the said Estate became vested in the youngest Son *Laud*, after the Death of his Mother; and he dying intestate before his Mother, the Reversion of the said Estate fell to his Heir at Law, *viz.* his elder Brother *John Piers*, from whom Mr. *Budgell* purchas'd. Notwithstanding this, *William Piers*, the second Brother, who was neither his Father's, or his Mother's youngest Son at the Time of their Death, went down to *Cambridge*, upon his Mother's Death, and, by the Advice of some People, got himself admitted by the College, and perswaded *Robert Paze*y, a poor ignorant Man,

w

Man,

Man, to attorn Tenant to him ; which, nevertheless, *Pazey*, having some Doubts, refused to do, till *Piers* gave him a Bond to indemnify him for paying his Rent.

Mr. *Budgell*, who had purchased the Estate for a valuable Consideration, offered, for a long Time, to refer the Matter to any Council learned in the Law ; which being refused, and Mr. *Budgell* being assured by all the Council he consulted, that his Title was good, he laid the same, at last, before *St. John's College* ; who being likewise assured by their Council, that the Estate was Mr. *Budgell's*, admitted him to it ; and *Pazey* likewise attorned Tenant to him, by signing a Writing drawn up and witnessed by the Steward of the College.

Note, Mr. *William Piers* married a Wife, who had been Woman to an Aunt of Mr. *Budgell's*, and purchased an Annuity from him of 10 *l. per Annum* for her Life ; which Mr. *Budgell* constantly paid, till her Husband got into Possession of the *Thorrington* Estate, as aforesaid ; but then Mr. *Budgell* was advised

vifed to ftop the faid Annuity as a fmall Reprifal ; but he never once denied that it was due, and constantly offered Mr. *Piers's* Attorney (by whom Mr. *Piers*, who is a very antient Clergyman, declared he was entirely directed) to allow it out of thofe Rents Mr. *Piers* had received at *Thorrington* ; or elfe defired, if he thought his Client was intitled to the *Thorrington* Eftate, he would fairly try that Title. The Attorney would do neither ; and inftead of bringing an Ejectment for the *Thorrington* Eftate, which was the only Matter in Queftion, he brings an Ejectment againft an Eftate of Mr. *Budgell's* in *Devonfhire*, of 30 *l. per Ann.* which was bound for the Payment of the abovesaid Annuity. Mr. *Budgell* could make no Defence againft this Claim, for he never denied that the Annuity was due ; fo that the Attorney got a Judgment, and he, or his Client, is now in the actual Poffeffion of an Eftate of 30 *l. per Annum* in Land, for an Annuity of only 10 *l. per Annum* during the Life of an old Woman, who

who is above Threescore: Yet not content with this, *they have brought another Action against Mr. Budgell for 200 l. upon a Bond, which he gave only as a Collateral Security for the Payment of the said Annuity; and Mr. Budgell having no other Relief but in Equity, against this cruel and most unjust Proceeding, they have got a Judgment upon the said Bond.*

WHEN the Attorney had done all this, being apprehensive that *Robert Pazez* might seek to be indemnified for the Money he had paid in his own Wrong, the said Attorney goes down to *Thorrington* in *Essex*, and there persuading the poor Man, *Pazez*, to let him see his Bond of Indemnification, he claps the Bond in his Pocket, and rides away with it. When he had thus taken away the poor Tenant's Bond, he brings an Ejectment against him, to which *Mr. Budgell*, the Landlord, made himself a Party; *Mr. Budgell* could not but think himself sure of his Cause, since not only his own Council, *viz.* *Mr. Serjeant Bains*, and *Mr. Serjeant Darnell*, but even those his Adversary had consulted, declared

Mr.

Mr. *Budgell's* Title was good. The Attorney, however, brought on the Cause at *Chelmsford*; but instead of entering at all into the Merits of his Client's pretended Title, which would have ended all Controversies, (but which he knew was not good,) he produced a Lease for three Years, which was expired, but which *Pazey* had been ignorantly brought to take from Mr. *Piers*, and which Mr. *Budgell* had never heard of before. This Lease being an *Estoppel* at Law against *Pazey*, the Tenant in Possession, the Attorney got a Verdict: He had taken care to bring his Action upon an Original out of the *King's-Bench*, so that Mr. *Budgell* could not prevent having his Estate immediately entered upon, and ruined, by any other Way than being at the *great Expence* of bringing a Writ of Error in the *House of Lords*, which he hath done accordingly, and must likewise apply to *Chancery* this next Term, for an Injunction to stop these unparallel'd Proceedings, and to oblige Mr. *Piers* to try the true Issue. Mr. *Piers's* Attorney, since the Verdict at *Chelmsford*, has also sent down and arrested the Tenant *Pazey*, a poor ignorant Man, for 150 *l.* which he pretends is due to his Client
for

for Rent, although the Title is not yet tried, and although he had taken the said *Pazey's* Bond from him, by which he might be indemnified for the Money he hath already paid. The Bailiffs, for Want of Bail, kept the Man several Days in Custody, and used him in a most barbarous Manner; and several other People seeing he was arrested, demanded their little Debts also of him; so that the poor Man and his Family are undone.

THE only real Controversy between Mr. *Budgell* and Mr. *Piers*, is about the *Thorington* Estate, which might have been ended at once, either by referring it to Council, or fairly trying the Title; but instead of that, Mr. *Piers's* Attorney has made four several Law-Suits of it, and forced Mr. *Budgell* besides into the *House of Lords*, and into *Chancery*.

THE whole Estate is but fifty Pounds *per Annum*; and as it must be kept fenced against the Sea with a good Wall, does not, some Years, produce any Thing clear; so that much more Money has been already spent in Law than the Estate is worth.

It is plain the *whole Design* of these Proceedings is to raise up as many *Law-Suits* as possible, to ruin Mr. *Budgell*: The poor Tenant is already ruined; and Mr. *Piers* himself would at length be ruined, if these Things were carried on at his Expence: But he is an ancient Country Clergyman, who declares he knows nothing of the Law, but leaves all to the Management of his Attorney, who, there are good Reasons to believe, was encouraged and supported by a *greater Man* than Mr. *Piers*, to carry on these Proceedings, in order to ruin Mr. *Budgell*.

Mr. *Budgell* would have got an Injunction from *Chancery* last Term (which is his only and proper Remedy;) but was disappointed of it by a Mistake of his Solicitor's, and Mr. *Piers*'s living above an hundred Miles off, so that the *Subpœna* could not be served in Time.

His Adversaries are pushing on the Writ of Error, which he has been obliged to bring as aforesaid in the *House of Lords*, because they know he must have an Injunction from *Chancery* in a few Days, which will effectually stop all their Proceedings. If

IF Mr. *Budgell* had brought his Writ of Error to prevent the Payment of a *just Debt*, he should not have thought he deserved *any Favour*; but being obliged to bring his Writ of Error by the *unjust Proceedings* before mentioned, he humbly hopes, the most Honourable *House of Lords* will not shew his Adversaries so much Favour as to grant them a By-Day; nor try this Writ of Error on the same Day with three others, which it is humbly conceived were appointed to be heard all together, upon a Supposition that they were only brought (as they often are) to *delay Justice*.

HE is well assured that most Honourable House, which is the *Dernier Resort* of Justice, will shew no Manner of Countenance to such *Acts of Oppression*, as are perhaps *without a Precedent*; and he and his Tenant having actually filed their Bill in *Chancery*, before this next Term, and got a *Subpœna* returnable the first Day of it, are sure of obtaining an Injunction against their Adversaries, if they are not indulged by the House, with having the Errors argued on a By-Day.

J.

WHERE-

WHEREFORE the Plaintiffs humbly hope, That the Defendant in Error shall have no such Favour shewed him; and that this Cause shall not be brought on before others which were set down, and therefore may regularly be heard before it.

I DO hereby certify, both as a Gentleman, and a Barrister at Law, that the above is a true State of my Case, and that I desire *no other Favour* from my cruel Adversaries, but that they will either *fairly try their Title to the Estate*, or refer the same to any indifferent Council learned in the Law.

May 4.
1728.

E. BUDGELL.

Note, The Reader cannot but observe, that the Proceedings above mention'd are so complicated, and of such a Nature, that no other Council but myself could set their Hands to all the several Facts.



THE
CHARACTER

Of the Late

Earl of HALIFAX,

Mentioned and Referred to in the foregoing

Letter to CLEOMENES.



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